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7 Attorney for Plaintiff

8 UNITED STATES DISTRICT COURT

9 DISTRICT OF NEVADA

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12 UNITED STATES OF AMERICA, ) **2:16-CR-193-KJD-VCF**  
13 )  
14 Plaintiff, ) **MOTION FOR EXTENSION OF TIME**  
15 ) **AND PROPOSED ORDER**  
16 v. )  
17 KENNETH EARL BROOKS, )  
18 Defendant. )  
19

20 **MOTION FOR EXTENSION OF TIME**

21 The United States of America, by and through DANIEL G. BOGDEN, United States  
22 Attorney, and Phillip N. Smith, Jr., Assistant United States Attorney, hereby files a Motion to  
23 extend the date for the Government to file a response to the Defendant's Motion to Suppress  
24 (Docket #19) for three (3) weeks.

25 This Motion is filed for the following reasons:

26 1. On September 1, 2016, the Defendant filed a Motion to Suppress. *See* Docket  
27 #22. PACER set the Government's response deadline for September 18, 2016, which fell on a  
28 Sunday.

2. On September 26, 2016, undersigned counsel for the United States anticipates commencing trial in the matter of *United States v. Louis Matthews*, case number 2:15-cr-062-JCM-CWH. Defendant Matthews is charged with participating in a drug conspiracy charge and committing a first-degree murder. The Government has subpoenaed approximately 60 witnesses for said trial and has had to conduct pre-trial conferences and has been preparing for the *Matthews* trial for the past month and a half, which has taken away from time needed to prepare a response to the Defendant's Motion to Suppress, taking into account due diligence. Defendant Matthews is in custody pending trial. It is expected that the trial will last a week and a half.

3. On September 19, 2016, the Defendant filed a second stipulation to continue the trial. *See* Docket #24.

4. The additional time requested herein is not sought for purposes of delay, but merely to allow the Government adequate time to prepare a response to the Defendant's Motion to Suppress.

5. Additionally, denial of this request for continuance could result in a miscarriage of justice.

6. This is the first motion filed herein to continue the Government's response deadline.

DATED: September 19, 2016.

Respectfully submitted,

DANIEL BOGDEN  
United States Attorney

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//s//  
PHILLIP N. SMITH, JR.  
Assistant United States Attorney

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

UNITED STATES OF AMERICA, ) 2:16-CR-193-KJD-VCF  
Plaintiff, )  
v. ) FINDINGS OF FACT AND  
KENNETH EARL BROOKS, ) ORDER  
Defendant. )

## **FINDINGS OF FACT**

Based on the pending Motion made by the United States, and good cause appearing therefore, the Court finds that:

1. On September 1, 2016, the Defendant filed a Motion to Suppress. See Docket #22. PACER set the Government's response deadline for September 18, 2016, which fell on a Sunday.

2. On September 26, 2016, undersigned counsel for the United States anticipates commencing trial in the matter of *United States v. Louis Matthews*, case number 2:15-cr-062-JCM-CWH. Defendant Matthews is charged with participating in a drug conspiracy charge and committing a first-degree murder. The Government has subpoenaed approximately 60 witnesses for said trial and has had to conduct pre-trial conferences and has been preparing for the *Matthews* trial for the past month and a half, which has taken away from time needed to prepare a response to the Defendant's Motion to Suppress, taking into account due diligence. Defendant Matthews is in custody pending trial. It is expected that the trial will last a week and a half.

3. On September 19, 2016, the Defendant filed a second stipulation to continue the trial. *See* Docket #24.

4. The additional time requested herein is not sought for purposes of delay, but merely to allow the Government adequate time to prepare a response to the Defendant's Motion to Suppress.

5. Additionally, denial of this request for continuance could result in a miscarriage of justice.

6. This is the first motion filed herein to continue the Government's response deadline.

For all of the above-stated reasons, the ends of justice would best be served by a continuance of the motion response deadline.

## **CONCLUSIONS OF LAW**

The additional time requested herein is not sought for purposes of delay, but merely to allow the Government adequate time to prepare and file a response, taking into account due diligence. The failure to grant said continuance would likely result in a miscarriage of justice.

## ORDER

IT IS THEREFORE ORDERED, that the previously-scheduled response deadline for the Government to respond to the Defendant's Motion to Suppress (Docket #22) is extended until October 11, 2016.

October 11 , 2016.

*Carl G. Dahl*

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**UNITED STATES MAGISTRATE JUDGE**